

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C 08-1739 CW

COMMONWEALTH ANNUITY AND LIFE
INSURANCE COMPANY, f/k/a ALLMERICA
FINANCIAL LIFE INSURANCE AND ANNUITY
CO.,

ORDER DISMISSING
DEFENDANT'S
OUTSTANDING CLAIMS

Plaintiff,

v.

JOHN DALESSIO; RITA DALESSIO; and the
DALESSIO FAMILY 2003 TRUST,

Defendants.

On July 20, 2009, the Court ordered Defendant John Dalessio to file within ten days proof of service of the summons and complaint on David Shane and Ann Sparkman, or to show cause within ten days why failure to serve these third-party Defendants within the time period provided by Rule 4(m) of the Federal Rules of Civil Procedure should be excused. Defendant did not make either of these filings within ten days. Accordingly, Defendant's claims against Shane and Sparkman are DISMISSED for failure to prosecute.


Plaintiff shall, within five days of the date of this order, submit a proposed judgment disposing of all claims in conformance with this order and the Court's order of July 20 ruling on the

1 parties' cross-motions for summary judgment. If Defendant wishes
2 to object to the form of the order, he must file his objections
3 within three days after the proposed judgment is filed.

4 Plaintiff may move for an award of attorneys' fees after
5 judgment has entered.

6 IT IS SO ORDERED.

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8 Dated: 8/6/09



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CLAUDIA WILKEN
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

COMMONWEALTH ANNUITY AND LIFE
INSURANCE COMPANY et al,

Case Number: CV08-01739 CW

Plaintiff,

CERTIFICATE OF SERVICE

v.

DALESSIO et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 6, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

John Dalessio
16 Via Las Encinas
Carmel Valley, CA 93924

Dated: August 6, 2009

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk

United States District Court
For the Northern District of California